

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF COMMERCE

In the Matter of the Application for a Real
Estate Salesperson License by Michael
A. Blad, Commerce File No.
RE2106277/DMG

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above-entitled matter came on for prehearing conference on Thursday, March 14, 2002, at 3:00 p.m. in Minneapolis. Appearing on behalf of the Department of Commerce was Jennifer S. Kenney, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, MN 55101-2130. Michael A. Blad, the Applicant herein, did not appear, nor did any person appear on his behalf. The record closed at the end of the prehearing conference on March 14, 2002.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact James C. Bernstein, Commissioner, Minnesota Dept. of Commerce, 85 Seventh Place E., Suite 500, St. Paul, MN 55101 to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

Did the Department properly deny the license application of Michael A. Blad?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On July 19, 2001, Michael A. Blad (hereinafter "Respondent") applied for a real estate salesperson license. Based upon a prior criminal offense, which Blad disclosed in his application, the Department denied his application. Respondent requested a hearing on the denial.

2. On February 12, 2002, the Department served a Notice of and Order for Hearing, Notice of Prehearing Conference, and Statement of Charges by first class mail

on Respondent at his last known address in Maple Plain, Minnesota. The mailing was not returned to the Department as undeliverable.

3. The Notice of Hearing announced a prehearing conference for 3:00 p.m. on Thursday, March 14, in Minneapolis.

4. The Notice of Hearing contained the following language, in bold print:

If Respondent fails to attend or otherwise appear at any prehearing conference, or settlement conference, or the hearing in this matter without the prior consent of the judge or fails to comply with any interlocutory order of the judge after having been served with a copy of this order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved and Respondent's application for a real estate salesperson license may be denied without further proceedings.

A PARTY INTENDING TO APPEAR AT THE PREHEARING CONFERENCE MUST FILE THE ENCLOSED NOTICE OF APPEARANCE WITH THE ABOVE-NAMED ADMINISTRATIVE LAW JUDGE WITHIN TWENTY (20) DAYS OF THE DATE OF SERVICE OF THIS ORDER. A COPY OF THE NOTICE OF APPEARANCE MUST ALSO BE SERVED WITHIN TWENTY (20) DAYS OF THE DATE OF SERVICE OF THIS ORDER UPON ASSISTANT ATTORNEY GENERAL JENNIFER S. KENNEY, 1200 NCL TOWER, 445 MINNESOTA STREET, ST. PAUL, MN 55101-2130.

5. Respondent has never filed notice of appearance. He did not appear at the March 14, 2002 prehearing conference, nor did he make any request of the Administrative Law Judge or the Assistant Attorney General to be excused from appearing at that conference or to have the conference rescheduled for a later date. Telephone numbers for both the Administrative Law Judge and the Assistant Attorney General are contained in the Notice.

6. Because of Respondent's violations of this office's rules, particularly because he failed to appear at the prehearing conference, the facts alleged in the Notice of Hearing are taken as true, and the Administrative Law Judge incorporates those facts into these findings by reference.

7. The Administrative Law Judge adopts as findings any conclusions that are more appropriately described as findings.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Commerce have authority to conduct this proceeding, to consider the issues raised here and to make findings, conclusions and orders, all based upon Minn. Stat. § § 14.50, 45.027, and 82.27 (2001).

2. The Department has complied with all substantive and procedural requirements of law or rule.

3. The Department gave Mr. Blad proper and timely notice of the prehearing conference that was scheduled in this proceeding.

4. Mr. Blad is in default because he failed to appear at the scheduled prehearing conference without being excused by the Administrative Law Judge. When a party defaults, an Administrative Law Judge may take the facts alleged in the Notice of Hearing as true, and no longer subject to dispute.

5. Based upon the facts alleged in the Notice of and Order for Hearing, which the Administrative Law Judge has taken as true, the Department has justified its denial of Mr. Blad's application.

6. The Administrative Law Judge adopts as conclusions and findings which are more appropriately described as conclusions.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge RECOMMENDS that the Commissioner affirm the denial of Mr. Blad's real estate salespersons license.

Dated this 20th day of March 2002.

S/ Allan W.Klein

ALLAN W. KLEIN

Administrative Law Judge